



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Northern Region  
601 Locust Street  
Redding, CA 96001  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



April 12, 2023

Charleen Beard, Supervising Engineer  
Shasta County Department of Public Works  
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**SUBJECT: REVIEW OF SPRING CREEK ROAD AT FALL RIVER BRIDGE  
REPLACEMENT PROJECT, STATE CLEARINGHOUSE NUMBER  
2023030403, SHASTA COUNTY**

Dear Charleen Beard:

The California Department of Fish and Wildlife (CDFW) has reviewed the Initial Study and Mitigated Negative Declaration (ISMND) dated February 2023, for the above-referenced project (Project). CDFW appreciates this opportunity to comment on the Project, pursuant to the California Environmental Quality Act (CEQA) Guidelines<sup>1</sup>.

**CDFW's Role**

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW may also act as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. Likewise, "take" authorization, as outlined by the applicable Fish and Game code, may be required if the Project as proposed may result in "take", as defined by state law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), or state-listed rare plant pursuant to the Native Plant Protection Act

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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(NPPA; Fish and G. Code § 1900 et seq.), authorization as provided by the applicable Fish and Game Code will be required.

## **Project Summary**

The Project, as described in the ISMND, is as follows:

*“The proposed Project entails replacement of the existing Spring Creek Road Bridge (No. 06C0209) over the Fall River with a new bridge on the same alignment. New paved roadway approaches would be installed on both sides of the bridge. A roadside ditch would be installed to facilitate drainage.”*

## **Comments and Recommendations**

### California Endangered Species Act

The California Endangered Species Act (CESA), §2080, prohibits “take” of state listed endangered, threatened, and fully protected species. Pursuant to §2081(b), incidental take authorization is required by CDFW if the Project has the potential to result in take of plants or animals listed under CESA, either during construction or over the life of the Project. When avoidance of a CESA-listed species is not feasible, acquisition of an Incidental Take Permit (ITP) would be warranted prior to any ground-disturbing activities to comply with CESA, pursuant to Fish and Game Code §2081(b). The ISMND indicates the Project may result in take of rough sculpin, a state Threatened and fully protected species. The ISMND indicates the Project proponent anticipates obtaining an ITP and satisfying all conditions of FGC §2081.4, which may allow the authorization by CDFW of potential impacts to a fully protected species, such as the conditions are met. Information pertaining to ITP is available here:

<https://wildlife.ca.gov/Conservation/CESA/Permitting>.

The ISMND indicates that the Lead Agency is considering several mitigation options to fully mitigate potential impacts to rough sculpin however, only one option is discussed. Providing funds for stream enhancement alone, without a designated project or timeline, may not be adequate to meet the full mitigation standard of CESA. It is strongly encouraged that the Project proponent initiate early consultation with CDFW regarding the potential for CESA-related impacts, to discuss construction alternatives that minimize impacts and mitigation.

### Bats

An evaluation of potential impacts to Townsend’s big eared bat was included in Appendix B of the ISMND. Other bat species were not analyzed. Townsend’s big eared bat appears to be the only species analyzed as it was the only bat species reported on the California Natural Diversity Database (CNDDDB) list with 5 miles of the Project area. Please be advised that CNDDDB is not an exhaustive or comprehensive inventory of all rare species and natural communities that may occur

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statewide. Field verification of potential suitable habitat for other bat species that may not have positive observations reported on CNDDDB, is advised.

While the Project area may not provide potentially suitable habitat for Townsend's big eared bat, the Project area bisects the range of eight other bat species, several of which are known to utilize anthropogenic structures such as bridges. Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment (FGC, § 4150; Cal. Code of Regs, § 251.1). Several bat species are designated California Species of Special Concern (SSC) and may meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Therefore, the ISMND should include a discussion of potential direct and indirect impacts to bats, alterations to their habitat and if necessary, appropriate avoidance and minimization measures. CDFW strongly encourages avoidance measures to include bat surveys of all potentially suitable habitat, conducted by a qualified bat biologist, prior to the commencement of Project activities. This link may provide other useful information about bats and bridges: <https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/env/caltrans-bat-mitigation-guide-a11y.pdf>

Additionally, Appendix B of the ISMND indicates cliff swallows were observed in the biological study area; however, specifics of the observation are not included. Cliff swallow mud nests are known to provide suitable habitat for roosting bats<sup>2</sup>. Therefore, the Project area may contain more than one potentially suitable structure for roosting bats. If intact swallow nests are present in the Project area, the ISMND should account for nesting birds and roosting and overwintering bats. If intact swallow nests are present in the Project area and work is performed outside of the nesting bird season, CDFW strongly advises Project activities occur during the months of September and October. If Project activities must be performed during bat hibernacula, between November 1 and March 1, CDFW strongly advises conducting a mud nest survey for bats performed by a qualified bat biologist prior to the commencement of Project activities. Please note that roost assessment typically requires input from biologists knowledgeable in the ecology of each specific species and, different species may require different mitigation strategies.

#### Nesting Birds

ISMND Mitigation Measure (MM) 4.4.1, is typically adequate for most construction Projects; however, due to the lack of clarity regarding mud nests and potentially suitable habitat for nesting birds and bats, CDFW recommends the revision of MM 4.4.1, as outlined below (changes are in bold).

- To avoid impacts to special-status birds and nesting birds, including raptors protected under state and federal regulations: (1) removal of raptor nests at

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<sup>2</sup> <https://wildlife.ca.gov/Conservation/Lectures/Archive>

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any time of year is prohibited unless appropriate permits are obtained, and (2) one of the following shall be implemented:

a. **Bridge modification and deconstruction**, vegetation removal and other ground-disturbance activities associated with construction shall occur between September 1 and January 31, when birds are not nesting; or

b. If **bridge modification and deconstruction**, vegetation removal or ground disturbance activities occur during the nesting season, a pre-construction nesting survey shall be conducted by a qualified biologist to identify active nests in and adjacent to the work area.

Surveys shall begin prior to sunrise and continue until **the project area has** been sufficiently observed. The survey shall take into account acoustic impacts and line-of sight disturbances occurring as a result of the project in order to determine a sufficient survey radius to avoid nesting birds. To the extent feasible given line-of-sight constraints and private property access, a minimum 330-foot buffer shall be surveyed for nesting eagles and a minimum 500-foot buffer shall be surveyed for nesting greater sandhill cranes. The survey report shall include a description of the area surveyed, date and time of the survey, ambient conditions, bird species observed in the area, a description of any active nests observed, any evidence of breeding behaviors (e.g., courtship, carrying nest materials or food, etc.), and a description of any outstanding conditions that may have affected the survey results (e.g., weather conditions, excess noise, the presence of predators, etc.).

**Active nests confirmed to be occupied by birds or bats should be left undisturbed until birds have fledged, the nest is no longer active, or bats have left for the season, as confirmed by a qualified biologist.**

The results of the survey shall be submitted electronically to the California Department of Fish and Wildlife at [R1CEQARedding@wildlife.ca.gov](mailto:R1CEQARedding@wildlife.ca.gov) upon completion. The survey shall be conducted no more than one week prior to the initiation of construction. If construction activities are delayed or suspended for more than one week after the preconstruction survey, the site shall be resurveyed.

#### Aquatic Species

MM 4.4.6 requires a qualified biologist to inspect and relocate western pond turtles if observed in any dewatering enclosures. While CDFW concurs with this

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avoidance and minimization measure, the measure should include inspection and relocation of all aquatic wildlife, including rough sculpin and western pond turtle. CDFW recommends changing the MM to read as outlined below (changes are in bold).

- If in-stream dewatering enclosures are erected to facilitate construction, a qualified biologist shall be present during initial dewatering of each enclosure to ensure that no **aquatic species, including rough sculpin and western pond turtles**, are trapped. If **aquatic species** are present within the enclosure, they shall be relocated outside the work area by the qualified biologist.

#### Lake and Streambed Alteration Agreement


Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

1. substantially divert or obstruct the natural flow of the bed, channel, or bank of any river, stream, or lake; or
2. substantially change or use any material from the bed, channel, or bank of any river, stream, or lake; or
3. deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

To obtain information about the 1600 Notification process, please access CDFW's website at: <https://www.wildlife.ca.gov/Conservation/LSA>.

We appreciate the opportunity to offer comments and recommendations that may assist in adequately analyzing and minimizing impacts to biological resources. If you have any questions, please contact Erika Iacona, Environmental Scientist, by email at [R1CEQARedding@wildlife.ca.gov](mailto:R1CEQARedding@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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Tina Bartlett, Regional Manager  
Northern Region

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